

**IN THE DISTRICT COURT OF MCINTOSH COUNTY  
STATE OF OKLAHOMA**

CANDY N. WEBB  
Plaintiff,

v.

CITY OF EUFAULA, a political subdivision and  
and municipality, DON MURRAY, individually,  
and SELINA JAYNE-DORNAN,  
Defendants.

Case No. CJ-2017-49

**FILED**  
JUN 26 2017

LISA RODEBUSH, Court Clerk  
McINTOSH COUNTY

By CT Deputy

**PETITION**

The Plaintiff Candy N. Webb (Plaintiff) hereby submits her Petition against Defendants City of Eufaula (City of Eufaula), Don Murray (Murray) and Selina Jayne-Dornan (Jayne-Dornan). In support thereof, Plaintiff alleges and states as follows:

1. Plaintiff is an individual and a former employee of Defendant City of Eufaula. She was hired September 2013 and was terminated June 23<sup>rd</sup> 2014. At the time of her termination, Plaintiff was a police officer.
2. Defendant Murray was Defendant City of Eufaula's Chief of Police, and was Plaintiff's immediate supervisor, and a decision maker in Plaintiff's termination.
3. Defendant Jayne-Dornan was at all material times the Mayor of Eufaula and also a final decision maker in Plaintiff's termination.
4. Plaintiff sustained an injury in May of 2014 which was on the job. Plaintiff was injured within the course and scope of her employment.
5. Defendant City of Eufaula is a political subdivision within the State of Oklahoma; furthermore, City of Eufaula is located within McIntosh County, Oklahoma.
6. Defendants Murray and Jayne-Dornan were the supervisors who fired Plaintiff and interfered with her contractual relationship by terminating her. Such interference was neither justifiable nor excusable.

7. Defendants were emboldened by their interpretation of the changes that went into effect in 2014 in the new Oklahoma worker's compensation laws, and believed that said changes to said law gave them unfettered discretion to interfere with rights of workers in Oklahoma without consequences.

8. That Plaintiff was subject to an employment contract, both with respect to employee benefits and terms and conditions of employment as set forth in the relevant excerpts of the "City of Eufaula Personnel Policies Employee Manual," attached hereto as Exhibit 1 and incorporated by reference herein as though fully set forth herein.

**COUNT I - MALICIOUS INTERFERENCE WITH A CONTRACTUAL RELATIONSHIP**  
**(AS TO DEFENDANTS MURRAY AND JAYNE-DORNAN)**

9. In support of Count I, Plaintiff re-alleges and re-states each and every foregoing allegation as though fully set forth herein.

10. Defendant Murray, the Chief of Police, ordered Plaintiff to run a physical test, notwithstanding her injury. The was false because the day before the physical agility test, Murray specifically told Plaintiff that she did not need to appear to run the physical test. Further, a few weeks prior, Defendant Murray had already told Plaintiff she was fired for "no call-no show," which was untrue as Plaintiff was not a "no call-no show." Defendant Murray also falsely accused Plaintiff of misconduct, and falsely stated that sworn statements from co-workers existed. In fact, the sworn statements allegedly against Plaintiff concerned conduct allegedly committed by Plaintiff; however, such conduct was impossible to be committed by Plaintiff because she was 200 miles away when such conduct occurred.

11. Plaintiff availed herself of his rights under 85A O.S. §§ 1, et seq., by seeking necessary medical treatment. Defendants Murray and Jayne-Dornan retaliated against Plaintiff by terminating her in June of 2014. Further, Defendants Jayne-Dornan and Murray dissuaded Plaintiff from seeking benefits, terminating her while still under medical care, and accusing her

of malingering despite the complete absence of either one being qualified to provide a medical diagnosis.

12. Defendants Murray and Jayne-Dornan were the supervisors who fired Plaintiff, and interfered with her contractual relationship by terminating her. Such interference was neither justifiable nor excusable.

13. As a result of the conduct of Defendants Murray and Jayne-Dornan, Plaintiff has sustained actual damages in excess of \$10,000.00.

14. Defendants Murray and Jayne-Dornan acted with reckless disregard for the rights of Plaintiff and acted intentionally with malice, and as such, punitive damages should be assessed against them.

**COUNT II - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(AS TO DEFENDANTS MURRAY AND JAYNE-DORNAN)**

15. In support of Count II, Plaintiff re-alleges and re-states each and every foregoing allegation as though fully set forth herein.

16. Additionally and/or alternatively, Defendants Murray and Jayne-Dornan acted outrageously and engaged in intentional infliction of emotional distress by engaging in the conduct above or directing such conduct, disregarding Plaintiff's legal rights and Defendants were fully aware that Plaintiff was diagnosed with a mental health disorder including anxiety. Additionally, Defendants were aware that Plaintiff was diagnosed for PTSD as a result of an on-the-job-injury trauma from a shooting that she was on call for wherein shots were fired at her and that their treatment towards her would exacerbate her condition.

**COUNT III-BREACH OF CONTRACT**  
**(AS TO DEFENDANT CITY OF EUFAULA)**

17. In support of Count III, Plaintiff re-alleges and re-states each and every foregoing allegation as though fully set forth herein.

18. Additionally and/or alternatively, Plaintiff had an employment contract with Defendant City of Eufaula, as set forth, in the relevant excerpts of the "City of Eufaula Personnel Policies Employee Manual." See Ex. 1.

19. Pursuant to the employment contract, Plaintiff could only be terminated from her employment upon certain conditions and was entitled to mandatory positive and progressive discipline policies, and non-retaliation. The stated reason for Plaintiff's termination was not true and was a fabrication created by Defendant Murray and Defendant City of Eufaula.

20. Further, the contract with the Defendant City of Eufaula provided that all employment decisions will be based on merit. Further, the contract provided that the Defendant City of Eufaula would not discriminate on the basis of disabilities to which Plaintiff had a disability as a result of her work related injury. Defendant Murray made Plaintiff work in excess of her restrictions, accused her of malingering, and fabricated reasons for disciplining Plaintiff all in violation of her contract. Further, the contract specifically provides Plaintiff and other employees a right to paid leave for an on the job injury and disability to which Defendant City of Eufaula failed to do. The contract also provides for reassignment to a job within Plaintiff's restrictions which were not done. The contract also provided for non-retaliation and merit in employment decisions as well as fairness in employment decisions.

21. Defendant City of Eufaula breached its contractual obligations with Plaintiff by terminating her in violation of her contract and failing to comply in conformance with her employment contract in numerous respects.

22. As a result of Defendant City of Eufaula's conduct, Plaintiff has sustained actual damages in excess of \$75,000.00.

**COUNT IV – 42 U.S.C. § 1983 – GENDER DISCRIMINATION**  
**(AS TO DEFENDANT MURRAY)**

23. In support of Count IV, Plaintiff restates and re-alleges the foregoing allegations in their entirety as though fully set forth herein.

24. Plaintiff was discriminated against on the basis of her gender by Defendant Murray, including the following:

- a) Plaintiff was a female police officer with the City of Eufaula and the only female police officer at City of Eufaula;
- b) Murray falsely stated that he had written statements against Plaintiff that he did not;
- c) Murray told Plaintiff that she did not have to report for the physical agility test and then recommended termination based in part her for not appearing;
- d) the written policy, with respect to Plaintiff, was bypassed and not followed;
- e) Defendant Murray was aware that Plaintiff was not present during the time period that he claims he had written statements but nevertheless used this untrue allegation as a basis to recommend termination;
- f) Plaintiff was asked by Defendant Murray in an extremely rare act to perform the physical abilities test after being released for duty, notwithstanding that this requirement was rescinded;
- h) Defendant Murray provided a pre-termination notice to Plaintiff at 9:40 a.m. on June 16<sup>th</sup> 2014 for a meeting at 2:00 p.m. that same day; and
- i) Defendant Murray demonstrated his pretext by telling Plaintiff she was terminated for being a "no-call no show" despite Plaintiff not being medically released and Murray thereafter ordered a fit for duty

examination. This action by Murray demonstrated his clear intent to termination the Plaintiff.

25. As a result of Defendant Murray's conduct, Plaintiff has sustained substantial damages in excess of \$10,000.00.

26. Defendant Murray has acted with reckless disregard for the rights of Plaintiff, intentionally and with malice and with conscious disregard of the federally secured rights of Plaintiff and as such punitive damages in excess of \$10,000.00 should be assessed against him.

27. That Plaintiff should be awarded a reasonable amount of attorney fees and costs incurred herein.

WHEREFORE, for all of the foregoing reasons, Plaintiff respectfully requests an award of actual damages in excess of \$75,000.00, an award of punitive damages against the individual Defendants in excess of \$10,000.00, reimbursement of attorney fees and costs incurred in this matter and any other and further relief this Court deems proper.



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**JURY TRIAL DEMANDED**

**ATTORNEY LIEN CLAIMED**

# City of Eufaula



## Personnel Policies Employee Manual



- 1 -

## **SECTION 100 INTRODUCTION**

### **101 PURPOSE**

The purpose of this Manual is to provide a working guide to the personnel policies, practices and benefits of employment with the City of Eufaula ("City"). **The Manual is not a legal document, does not constitute a contract of employment and does not give rise to a property right in continued employment with the City. The policies and procedures contained herein apply to all regular employees and elected employees other than Council Members pursuant to City Codes and Ordinances. The employment relationship with the City (except for the elected positions) and may be terminated at any time by the employee or the City solely for cause and the good of the service.**

No employee or representative of the City has any authority to enter into an employment contract, to change the employment policy, or to make any agreement contrary to the foregoing.

Each employee should read, understand and comply with all provisions of this Manual. It describes many of the employee's responsibilities as an employee of the City, and outlines the programs developed by the City to benefit all of its employees. Among the many objectives of the City is to provide a work environment that is conducive to both the personal and professional growth of each employee.

No Manual can anticipate every circumstance or question about policy. As the City continues to grow, the need may arise, and the City reserves the right, to revise, supplement, or rescind any policies, or portion thereof, from time to time as it deems appropriate and in its sole and absolute discretion. Employees will, of course, be notified of such changes to the Manual as they occur. Any employee having a question regarding any of the policies and procedures contained in the Manual is encouraged to direct inquiries to his/her Supervisor, Department Head or the Mayor.

All employees must confirm that they have read and understand the policies set forth in this Personnel Policies and Procedures Manual by signing an **Acknowledgement Form**, an example of which is shown at the back of this Manual as Appendix "A". The actual forms can be obtained in the City Clerk's office.

### **102 SCOPE**

Except as set forth below, this Manual applies to all employees and certain elected employees other than Council members (hereinafter collectively "employees") of the City. Any reference to the masculine form in these policies shall also be applicable to the feminine form.

### **103 EXCLUSIONS**

The Fraternal Order of Police, Lodge 207 is recognized as the sole and exclusive bargaining agent for certain employees as described in Oklahoma law or as identified in the Collective Bargaining Agreement (CBA). The provisions of this Manual shall apply to employees

- 2 -

covered by the CBA only where the CBA is silent on the subject matter contained in this manual or as provided for by State law.

## **SECTION 200 EMPLOYMENT POLICIES AND PRACTICES**

### **201 BUSINESS ETHICS AND CONDUCT**

Employees of the City are in a position of public trust and, as such, must be courteous and helpful, dutifully accepting their responsibilities as public servants, and be attentive to citizens of Eufaula who seek assistance, or desire to register a complaint. Employees shall at all times be aware of their primary obligation to render impartial, efficient, and effective service to the public in the discharge of their duties.

The City will comply with all applicable laws and regulations and expects all of its employees to conduct business in accordance with the letter, spirit and intent of all relevant State and Federal laws and to refrain from any illegal, dishonest, or unethical conduct either on or off-duty.

In general, the use of good judgment, based on high ethical principles and the ordinary and reasonable rules of behavior observed by law-abiding and self-respecting citizens will guide employees with respect to lines of acceptable conduct. Employees shall commit no act, either on or off-duty that would bring reproach or discredit upon the City or its employees. If a situation arises in which it is difficult to determine the proper course of action, the matter should be discussed openly with the employee's immediate supervisor, and if necessary, with the Mayor or Vice Mayor for advice and consultation.

Disregarding or failing to comply with this standard of business ethics and conduct could lead to disciplinary action, up to and including termination of employment.

### **202 EQUAL EMPLOYMENT OPPORTUNITY/NON-DISCRIMINATION POLICY**

The City is committed to providing equal opportunity to all employees and applicants for employment. All aspects of employment with the City will be governed on the basis of merit, competence and qualifications. There shall be no discrimination against any employee or applicant on the basis of race, color, creed, religion, national origin, age, sex, disability or veteran status. This commitment extends to every aspect of employment, including recruitment, hiring, selection, placement, training, compensation, benefits, promotion, transfer, training, education, benefits, social/recreational programs, layoff, recall and disciplinary action.

The City Clerk and the Mayor have been assigned the responsibility of ensuring that all phases of personnel administration are in harmony with this policy. The responsibility for administering this policy is delegated to Department Heads and Supervisors.

- 3 -

## **203 IMMIGRATION LAW COMPLIANCE**

The City is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not previously submitted an I-9 to the City within the past three years, or if their previous I-9 is no longer retained or valid.

Employees with questions or seeking more information on immigration law issues are encouraged to contact the City Clerk. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

## **204 DEFINITION OF EMPLOYMENT CATEGORIES**

- **Probationary Employees:** Regular non-uniformed employees will be deemed to be in a probationary status for ninety (90) days from the date of initial employment. A probationary employee shall have no grievance or appeal rights and may be dismissed at any time during the probationary period for the good of the service. The Mayor with Council approval may elect to extend the probationary period to continue to evaluate a new employee.
- **Regular/Full Time Employees:** An employee who is scheduled to work forty (40) hours per week and who has satisfactorily completed the probationary period becomes a regular/ full time employee. Completion of the introductory period does not confer on any employee any status other than employment at will.
- **Part Time Employees:** Employees who are scheduled to work less than forty hours per week and are eligible for Social Security and Workers Compensation, but not eligible for other City benefits.
- **Temporary Employees:** Employees hired for seasonal work or for a specific period of time or for less than thirty (30) hours per week are considered temporary. Temporary employees accept, as a condition of their employment, a specified termination date. Temporary employees, upon reaching that termination date, may be eligible for continued employment in another temporary assignment or in a full time position. A temporary employee is entitled to Workers' Compensation and Social Security benefits but is not eligible for any other City benefits.
- **Elected Positions/Officials (except City Council Members):** Employees of the City who are elected by the public. These officials are covered under this Manual as regards benefits. They may be removed from office solely for cause and the good of the service by the Mayor with approval of the Council.

- 4 -

**NOTE:** As a general rule, employees of the City must be eighteen (18) years of age or older. Occasionally, the City hires into temporary positions students or others who are sixteen (16) or seventeen (17) years of age, but this is done only under special conditions and must be approved by the Mayor. Underage employees must meet the criteria set out by the Department of Labor as it applies to minors.

- **Non-Exempt Employees:** Employees who are not exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) as amended are paid by the hour and are entitled to pay at the rate of one and one-half (1 ½) times their regular hourly rate for all overtime hours worked.
- **Exempt Employees:** Employees who are exempt from the minimum wage and overtime provisions of the FLSA as amended are considered executive, administrative, and professional employees and do not receive overtime pay.

## 205 AMERICANS WITH DISABILITIES ACT (ADA)

It is the policy of the City to abide by both the letter and spirit of the law in all aspects of the Americans with Disabilities Act ("ADA"). The act prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions and privileges of employment. It applies to recruitment, advertising, tenure, leave, fringe benefits, and all other employment-related activities.

The City prohibits all discrimination against "qualified individuals with disabilities." This includes applicants for employment and current employees. An individual is considered to have a disability if he has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. The City also forbids discrimination against persons because they have a known association or relationship with an individual with a disability.

The ADA applies to impairments that substantially limit major life activities such as seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, and working. Generally an individual with a minor, non-chronic condition of short duration, such as a sprain, broken limb, or the flu would not be covered.

The City considers a qualified individual with a disability as a person who meets legitimate skill, experience, education, or other requirements of an employment position that he holds or seeks. The City requires the ability to perform "essential functions" of the job, and an individual would not be considered unqualified simply because of his/her inability to perform marginal or incidental job functions.

**Accommodation:** The City will provide reasonable accommodation to enable a qualified person with a disclosed disability to perform the essential functions of the job which he/she either currently holds or is seeking. It is the responsibility of every employee to comply with the provisions of the ADA and to create a positive work environment.

The City will not be able to make accommodations that would impose an undue hardship on the operation of the City. The ADA defines an undue hardship as an action that requires significant difficulty or expense. Each accommodation request will be handled on a case by case basis and every effort will be made to comply with the ADA.

- 5 -

## 206 NEPOTISM

Title 11 §118106 the Mayor, the Council, nor any other authority of the City government may appoint or elect any person related to the Mayor, any Council member, or himself, or in the case of a plural authority, to one of its members, by affinity or consanguinity within the third degree, to any office or position of profit in the City government. However, this shall not prohibit an officer or employee from continuing in the service of the City. This includes any spouse, child, brother, sister, parent, uncle, aunt, niece, nephew or cousin. A **Nepotism Chart** is included in this Manual as Appendix "B" to assist employees in determining the application of this policy.

Except as stated above it is the policy of the City to allow employment of family members of existing regular employees when they are clearly the best applicant for the vacancy and when prior approval is granted by the Mayor. However, a family member may not be hired into a position where he/she directly or indirectly supervises or is supervised by another family member. Further, such relative may not be placed in a position where he/she would work with or have access to sensitive information regarding the family member.

## 207 HIRING PROCEDURE

Initial employment with the City will be based on merit (an applicant's qualification, skills, aptitude, previous experience and education as they relate to the essential functions of a particular position) and fitness and in accordance with the City's equal opportunity policy.

**207.1 Request to Fill Vacancy** - The Supervisor/Department Head will notify the Mayor of a position vacancy. All job vacancies at any level will be advertised internally and will be advertised externally as deemed appropriate on a case by case basis, except that all Department Head level positions will be advertised both internally and externally. Internal announcements will be distributed to each department for posting on bulletin boards.

**207.2 Eligibility for Hire** - Any person will be deemed eligible for initial employment in the City service who:

- Meets the minimum requirements established for the position;
- Is able to perform the essential functions of the position with or without reasonable accommodation;
- Has not been convicted of or plead guilty to a felony or to a misdemeanor which would indicate that the person is not fit for City employment. No candidate who has been convicted of or pled guilty to a misdemeanor involving moral turpitude or any felony will be eligible to take examinations for employment in the Police Department;
- Does not have a record of previous unsatisfactory service in City employment or elsewhere of such a nature as to demonstrate unsuitability for employment in the position for which he/she has applied; or
- Is otherwise qualified under the personnel policies of the City.

- 6 -

**207.3 Filling Vacancies** - When a vacancy occurs in a position that is eligible to be filled, the Mayor or his designee will advertise and disseminate information relative to vacancies in accordance with the Equal Employment Opportunity Policy. The following procedures will be used, unless, for the good of the service, the Mayor approves an exception:

- **City Employees:** City employees meeting the City's requirements may be given preference in filling vacancies. However, the City reserves the right to hire externally if deemed to be in the best interest of the City.
- **Application:** All applications for employment will be filed on forms provided by the City. Current employees must submit statements bringing their applications up-to-date in order to make application for promotions.
- **Use of Commercial or State Employment Agencies:** Applications may be accepted from commercial employment agencies or from the State Employment Services. The applicant will be required to complete the City's application form and go through the same testing requirements.
- **Interviews and Screening:** The Department Head or respective Supervisor will screen job applications to ensure the applicants have: 1) the minimum qualifications for the position as set forth in the job description; 2) the qualifications which adhere most closely to job requirements; and 3) acceptability in accordance with the terms and conditions of the funding source requirements and guidelines. Employee's work histories may also be reviewed prior to any testing.
- **Competitive Examinations:** Competitive examinations may be given if deemed necessary. They may be oral, written, physical agility, skills, rating of experience and training, psychological, polygraph or any combination thereof.
- **Interviews:** Initial job interviews will be conducted by the Supervisor/Department Head, however final interviews will be done by the Mayor, along with other staff members as he deems appropriate. The interviewer will assure that the interview responses are correct, and that references are indicative of a proper employment history.

**207.4 Disqualification from Consideration** - Fraud, misrepresentation, concealment, or dishonesty on the part of any applicant on the application form or resume, the examination process or any attempt to obtain special consideration will disqualify an applicant for employment.

**207.5 Medical Examinations/Drug and Alcohol Screening, etc.** - Offers of employment for permanent positions are contingent upon a background check, and drug/alcohol screening. Certain temporary positions may also require physicals and drug and alcohol screening.

**207.6 Hiring** - Final selection will be made by the Mayor and City Council upon recommendation of the appropriate prospective Supervisor or the Mayor. No City employee, other than the Mayor, or his designee, with approval of the City Council shall offer employment or make employment commitments to individuals.

- 7 -

When an employee is hired the Mayor or his designee will explain the overall functions of the staff, make the appropriate staff introductions, and provide a copy of the City's Personnel Policies and Procedures Manual to review, along with all the necessary forms to complete.

## **208 JOB DESCRIPTIONS**

Job Descriptions are used in staffing, wage and salary administration and training. Job Descriptions contain the minimum qualifications, desired qualifications, previous training, skills, and licenses required, if applicable, of each job within the City. Job Descriptions are flexible, in that changes are made as job duties and responsibilities change. Employees may be asked to perform duties outside their Job Description. If new duties and responsibilities develop over time, the Job Descriptions will be changed.

## **209 PERSONNEL RECORDS**

**209.1 Personnel Files** – Items such as important events in an employee's history with the City, personal data, disciplinary action memoranda, medical information, background data, and other items pertinent to the employee are maintained in his or her personnel files. These files are maintained in the Office of the City Clerk. The City Clerk has the responsibility for the security and control of these records. An employee and/or his Supervisor have the right to review the employee's personnel files during regular business hours in compliance with all State and Federal laws, and only in the presence of the City Clerk or Assistant City Clerk. No item may be permanently removed from an employee's personnel file without the written authorization of the Department head with the concurrence of the Mayor.

**209.2 Changes in Employee Data (i.e. Address, Telephone, Dependents, etc.)** - Employees are required within five (5) business days to report any change of personal data such as address, telephone number, number of dependents, emergency contact information, educational accomplishments; and other such status reports to their Supervisor/ Department Head who shall forward such information to the Office of the City Clerk.

**209.3 Removal of Disciplinary Reports** – Information pertaining to disciplinary actions may be removed from the personnel file after a period of one (1) year or the discretion of the governing entity.

## **210 CONFLICTS OF INTEREST**

**210.1 Secondary Employment** - Employment with the City shall be deemed the primary employment for each person. Secondary employment is permissible provided it does not interfere, in any manner, with an employee's ability to perform his assigned duties as a City employee. City employees may not be engaged in secondary employment during time for which they are receiving compensation from the City.

- 8 -

**210.2 Financial Interests** - An employee may have no financial interest in any contract, service or other work performed by or for the City. Employees shall neither solicit nor accept money, free or preferred service, benefits, or consideration from any person, business or organization in return for special interests or favors. If an employee has any questions concerning what is encompassed within this section, he should direct such questions to the Department Head, City Clerk or Mayor.

**210.3 Political Activities** - Employees may attend and express their views and opinions at City Council meetings or any other public meetings of City Commissions and Boards. Employees may participate in political activity provided the political activity in which they participate shall be exercised only during off-duty hours while not in uniform and not on City property.

**210.4 Endorsements and Referrals** - Employees shall not recommend or suggest, in any manner, except in the transaction of personal business, the employment, procurement, or patronizing of a particular product, professional service, commercial service or enterprise.

**210.5 Solicitations and Collections** - During working hours, employees may solicit contributions, subscriptions, sell tickets, or collect donations for pre-approved charitable causes, provided that Departmental operations are not unduly impeded. Prior approval by the Mayor is required.

## **211 NEWS RELEASES**

Any news releases to the press or other media concerning City business shall be given only by persons designated by the Mayor and City Council.

## **212 PERSONAL APPEARANCE**

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image the City presents to customers and visitors. During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Consult your Supervisor or department head if you have questions as to what constitutes appropriate attire.

The wearing of garments that display unpatriotic, socially offensive, vulgar or obscene words, signs, or pictures is prohibited.

## **213 MANAGEMENT RIGHTS**

In accordance with State and Federal Statutes and City Codes and Ordinances specific areas of responsibility must be reserved to the Mayor and City Council and/or Department Heads and Supervisors if the public service mission of the City is to function effectively and if rules and regulations are to be administered fairly, consistently, equitably and without discrimination. These rights shall not be diminished by action of labor organizations and any related working agreement. A general statement of the management rights of the City are:

- 9 -

- To determine the nature, scope and definition of the City organization, including classification, selection number, retention, promotion, reorganization, transfer, deployment, assignment, layoff, recall and scheduling of employees.
- To determine the methods, means, tools, equipment and personnel by which operations are to be conducted, including the right to contract and subcontract existing and future work.
- To direct, supervise and manage employees.
- To discipline, suspend, demote and/or discharge employees in accordance with the policies of the City and State and Federal Laws.
- To require as a part of normal employee development, maintenance of minimum skill levels required of job classifications, and to aid in the professional development and general upgrading of the department, that employees take appropriate related training either on or off duty in order to fulfill the responsibilities of their positions.
- To take the necessary measures to maintain optimum productivity in operations.
- To determine the necessity for and assignment of overtime in compliance with appropriate related legislation and/or court rulings and policies.
- To determine the scope, priority and amount of budget allocations, and to take any action warranted by the City's financial or budgetary condition.
- To determine City policy concerning employment, pay and benefits.

- 19 -

The foregoing is a summary of the Family and Medical Leave Act of 1993. A complete copy of the FMLA is posted on all employee bulletin boards and may also be viewed in the City Clerk's Office or online at:

<http://www.dol.gov/esa/whd/regs/statutes/fmla.htm>

Copies of the forms to be used in conjunction with Family Medical Leave are included in this Manual as **Appendix "C-1" Request for Family Medical Leave**; **Appendix "C-2" Physician's Certification – Employee**; **Appendix "C-3" Physicians Certification – Family Member**; **Appendix "C-4" Certification of Qualifying Exigency for Military Family Leave**; **Appendix "C-5" Certification for Serious Injury or Illness of Covered Servicemember/Veteran for Military Family Leave**; and **Appendix "C-6" Notice of Intent to Return from Family and Medical Leave and Physician's Certification of Employee's Ability to Return to Work**.

## 505 MATERNITY LEAVE

An employee may continue to work based on her physician's written consent to do so. Unpaid Maternity Leave will be granted to regular, full time employees, if requested, under the Family and Medical Leave Act as explained in Section 504. An employee who does not return to work after maternity leave shall be considered to have resigned unless prior arrangements have been made with the Mayor. The Mayor shall make the final decision concerning the employee's return to work after an absence exceeding the initial twelve (12) week period.

## 506 ILLNESS AND INJURY (Non Job-Related)

**506.1 Sick Leave** – Sick leave shall be granted to all regular, full time employees based upon pay period completed.

- Full time employees will begin accruing sick leave upon hire, however they may not use said leave until after completion of the ninety (90) day probationary period.
- Sick leave shall be extended to each employee upon an equal basis. Each employee shall accrue three and 7/10<sup>ths</sup> (3.7) hours per pay period completed, totaling twelve (12) days per year. Employees may accrue a maximum of nine hundred sixty (960) hours of sick leave. This benefit is very generous and should be treated like an insurance policy. Employees should reserve accrued amounts of sick leave for serious illness.

Full time employees may carry over any unused sick leave to the next fiscal year. However, at no time shall an employee be allowed to carry over more than the maximum amount of sick leave allowed.

An employee having at least one year of service may use any accrued amounts of sick leave to donate to a fellow employee; however the donation may not deplete the donating

- 20 -

employee's sick leave accrual and must leave at least eighty (80) hours for use by the donating employee.

Sick leave shall include all leave time associated with an individual's health (i.e., sickness, disability, physical examinations, doctors' office visits, mental health, etc.) or immediate family's health.

Any employee who takes three (3) or more consecutive days of sick leave will be asked to present a doctor's statement or other documentation to verify the employee's ability to return to work.

The request procedure shall be identical to the annual leave procedure as written in this policies and procedures manual.

Sick leave is not a reimbursable benefit and should not be considered as such upon separation of employment with the City or at the end of a fiscal year if total accumulated hours exceed eighty.

## **507 ILLNESS AND INJURY (Job-Related)**

**507.1 Job Related Illness/Injury Leave Policy** - In addition to benefits available through the Oklahoma Workers' Compensation Act, it is the policy of the City to provide compensable leave, as hereinafter set out, for employees who incur disabilities that can logically and medically be proven to result from an accidental injury arising out of and in the course of employment with the City. Such benefits will be available upon the necessary absence from duty of an employee because of an injury while properly performing the duties of the position without negligence or misconduct on the part of the employee.

**507.2 Definition of Job Related Illness/Injury or Accident** - An "injury" shall mean violence to the physical structure of the body and such disease or infection as naturally results therefrom. For the purpose of this provision, injury shall also include diseases which qualify as occupational diseases under the Workers' Compensation Laws of the State of Oklahoma. An "accident" shall be considered to mean an unexpected or unforeseen event happening suddenly and violently, producing objective symptoms at the time of injury.

**507.3 Reporting Injuries/Accidents** - In instances of injuries on duty requiring medical attention benefits afforded hereby are contingent upon the strict compliance with the following procedures. Failure to comply may result in the denial of the benefits under this section.

- An injured employee shall report immediately to his Supervisor at the time of occurrence of the injury. An accident report must be completed by the injured party, a witness and/or Supervisor and submitted to the City Clerk within twenty-four (24) hours of occurrence. Without good cause, failure to report an injury is a violation of City policy and the employee may be subject to disciplinary action.
- The Supervisor/Department Head shall secure first aid and determine if the employee needs further medical attention. If any reasonable doubt exists, the

- 21 -

employee should be examined by a medical doctor or medical facility selected by the City.

- If the attending physician reports that the employee cannot return to work after treatment, the employee may use accumulated sick leave, or the City will make compensation for the first three (3) days of absence for a job-related injury whether or not the employee has accumulated sick leave. Thereafter, benefits will be as determined by the Workers' Compensation Court.
- With the approval of the City, an employee may use his own personal physician. However, the City reserves the right to have the City's physician examine the employee prior to and during the treatment except for emergencies. The employee and his Supervisor must obtain a medical authorization form from the Office of the Mayor prior to such alternative treatment. Exceptions to this procedure may be granted in the case of an emergency, but a telephone call must be made by the Department Head or his designee informing the Office of the Mayor of the injury.
- The Office of the Mayor and the Office of the City Clerk must receive a full report of the injury and treatment, signed by the employee, if possible, and the immediate Supervisor within three (3) working days after each doctor's visit.
- Employees who are injured on the job due to their own gross negligence or misconduct, or who fail to comply with established requirements of the City in the reporting and processing of injury reports, or who fail to cooperate with the City's physician, may be ineligible for injury leave and other City benefits except as mandated by State law.

**507.4 Return to Duty Policy** - Employees on injury leave must return to duty at the earliest practical date. Employees on injury leave may be required to submit proof of continuing disability to the Office of the Mayor and the City Clerk's office. Employees returning to regular, non-restricted duty must submit a "Release to Work Without Restrictions" form from the attending or City's physician to the Supervisor/Department Head.

**507.5 Fitness for Duty Exam** - An employee may be required to undergo a fitness for duty examination by the City's physician to determine whether the employee is able to perform the essential functions of the position with or without accommodation. If an accommodation is not possible without an undue hardship to the City, the employee's services may be separated.

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Nothing in the foregoing section shall be construed, deemed or interpreted as abridging or interfering with an employee's rights under the Workers' Compensation Act, nor shall any provision of such laws abridge or interfere with the benefits provided under this section or the rights of the City reserved herein.

**508 FUNERAL LEAVE**

In the event of death in the employee's "immediate family" employees may be granted a three (3) working day absence without loss of pay to attend the funeral, attend to family affairs, etc. Immediate family is defined as a spouse, son or daughter, son-in-law, daughter-in-law, brother or sister, brother-in-law, sister-in-law, father or mother, mother-in-law, father-in-law, grandparent, grandchild, or stepchild. (amended 9/9/13)

**509 OTHER LEAVE PROVISIONS**

**509.1 Military Leaves of Absence and Restoration of Position** - A regular, full time employee who is a member of the reserve component of any branch of the Armed Forces and who is ordered to active duty is entitled to a leave of absence without loss of pay for the first twenty (20) calendar/working days of the Federal fiscal year (October 1 through September 30). A calendar/working day shall not include weekends, but shall be between Monday through the following Friday. An employee who is required to make annual training tours of duty in connection with his military reserve activities shall receive his normal rate of pay while on such tours of duty for a period not to exceed twenty (20) calendar/working days each Federal fiscal year. An employee returning from military leave is entitled to re-employment in the position he/she held at the time of deployment with no loss of seniority in accordance with State and Federal Laws. A copy of the employee's orders must accompany any request for time off.

**509.2 Leave of Absence Without Pay** - Leave(s) of absence without pay (other than those types of absences covered by FMLA) may be granted at the City's discretion to regular full-time employees, only upon completion of the probationary period, to maintain continuity of service in instances where unusual or unavoidable circumstances require prolonged absence. The City Council is the sole authority for this leave and all factors concerning leave without pay, such as benefits continuation, reinstatement, etc. should be discussed with the Mayor prior to Council approval of such leave.

**509.3 Voting** - Any employee will be allowed a reasonable amount of time off up to the maximum required by State law in order to vote should the employee be unable to vote at any time other than working hours due to requirements of the City. The employee must request time off to vote at least one (1) day prior to the election.

**509.4 Absence Without Leave** - Absence without leave means any absence of an employee from duty without specific authorization. Whenever an employee is absent from work without prior authorization, the employee shall not receive pay for such absence.

An employee who is absent from work for two (2) consecutive working days without prior authorization shall be deemed to have abandoned and resigned his/her position effective at the beginning of the first day of unauthorized absence. The employee's separation will be reported as a resignation by abandonment of position. If there is an extenuating circumstance or good cause for the unauthorized absence, the employee may appeal such action to the Mayor within ten (10) days after receipt of such written notice of separation.

**509.5 Civil Leave** - An employee will be given time off with pay when performing jury duty or when required to serve as a witness in any criminal or civil proceeding. The

- 23 -

compensation paid by the Court to the employee for such duty is the employee's reimbursement of parking and meals while serving such duty and is not required to be remitted to the City Clerk's Office. If any employee is involved in a personal court action, he may be granted leave to attend to his business; however, the time off will be charged to his accrued vacation time or without pay.

**509.6 Administrative Leave** – Full time employees are eligible for administrative leave not charged to annual leave. The Mayor may approve administrative leave for donating blood, closing due to extreme weather conditions, training, and career development.

## **510 RETIREMENT BENEFITS**

**510.1 OMRF Defined Benefit Plan** - As a retirement benefit, the City provides an OMRF Defined Benefits Plan. It is mandatory for all non-union, full time employees to be enrolled in this Plan. Both the employee and the City contribute to the plan. The percentages vary from fiscal year to fiscal year. Questions regarding employee and City contributions should be directed to the City Clerk's office. Employees shall participate in this plan immediately upon hire as a full time employee.

**510.2 Social Security:** All employees are subject to Federal Social Security FICA and Medicare deductions. City and employee contributions are made in accordance with Federal law.

## **511 UNEMPLOYMENT BENEFITS**

All employees are covered by the Oklahoma Employment Security Commission program. The City pays all costs mandated by the Federal Unemployment Tax Administration (FUTA).

## **512 JOB COUNSELING BENEFITS**

Employees concerned about their job performance, or who just wish to discuss job-related subjects, may arrange a counseling discussion with the Mayor. Such discussions shall be confidential and will not jeopardize employment with the City.

## **513 ALLOWANCES**

**513.1 Travel Allowances** - Employees who are on approved assignment for the City shall be eligible for reimbursement of lodging, conference/seminar registration fees, meals, and transportation (personal vehicle) expenses based upon the following criteria:

- Original receipts will be required for lodging and meals. Between meal snacks and drinks will not be reimbursed. The City will not pay for any alcoholic beverages.
- The maximum per diem allowable is subject to limitations based on the travel location as found in IRS Publication 1542.

- 24 -

- Mileage will be reimbursed according to the current Internal Revenue Service allowance when a personal vehicle is used.
- Charges for tolls and parking fees will be reimbursed. Claims for reimbursement are to be made on the City's travel forms and individual receipts are required. An employee wishing to attend a conference, seminar or other meeting must submit a request, in writing, including an itemization of expected costs to the Mayor for approval.

**513.2 Credit for Hours Worked** - Employees attending approved official City business shall be given credit for hours worked based up the following criteria:

- Credit for attendance will be based upon the starting time of the function and the ending time of the function.
- Credit for hours of travel will be based upon the total hours of travel from the point of departure and to return to the point of departure, when the hours of travel require leaving and returning outside the normal workday. When travel time is scheduled, consideration will be given to provide for the safety of the employee in relation to the number of hours spent driving to and returning from the official City assignment.
- For official assignments that last more than one (1) day, the travel time outside the normal workday is figured from the point of departure on the first day and return to point of departure on the completion day.
- Out of State functions will be considered on a case-by-case basis as far as travel time is concerned.

- 25 -

## SECTION 600 IN-SERVICE PROVISIONS

### 601 TRAINING AND SAFETY

Training is an important part of the success and efficiency of the City's services and instrumental to employee development. It is viewed as a shared responsibility between the employee and management. The goal is to broaden the knowledge and skills of the employee in areas related to his job performance, to provide skills for enhanced career development and to ensure the best possible service to the public. Because degrees of training may differ between departments, the responsibility for the development of employee training programs is assigned to the Supervisors/Departments Heads. They will review training needs at regular intervals to assure that effective training is accomplished within the department.

The City is committed to providing a safe and health workplace for all employees. No employee shall knowingly be required to work in an unsafe environment. Responsibility for observance of safe work practices is shared by each employee. Therefore, employees are required to attend safety training and apply the information provided by any in-service safety training manual. An employee is to immediately notify the Supervisor/Department Head of any unsafe condition in the workplace.

**In case of fire call 9-1-1.** Each City building has an emergency procedure to follow in the event of a fire or other disaster. Fire extinguishers are placed in conspicuous areas of buildings.

### 602 PROMOTION

The City will attempt to promote from within the workforce when it is determined that it would be in the best interest of the City and Public. However, the City reserves the right to hire from outside sources for any position. In considering a promotion from within the workplace, the City will consider merit (the employee's qualifications, skills, aptitude, attitude, performance, evaluations and attendance) and fitness for the position. Employees within the Department may compete with other applicants for a position in which case Section 200, Paragraph 207 of this Manual will apply.

If an employee is selected for promotion, he will receive a higher level of pay than what he is currently receiving in accordance with the current pay resolution adopted by the City Council. If the employee fails to meet the standards set for the position within the ninety (90) day probationary period, the employee will be returned to his previous job classification and his pay decreased to that level.

No employee may be promoted or transferred to a position which will result in that person being in a supervisory role in relationship to a spouse or family member. For the purpose of this policy, a supervisory role is defined as one where the person has direct or indirect input over the subordinate employee's pay, job evaluations, disciplinary recommendations, promotions, demotions or day-to-day supervision. Further, no employee may transfer into a position which will result in the person being supervised by a spouse or family member.

- 26 -

Family member is defined to include parent, child, brother, sister, aunt, uncle, cousin, niece, nephew, parent-in-law, brother-in-law or sister-in-law.

In the event a situation arises in conflict with this provision, either initially or by a subsequent family relationship developing, the two (2) impacted persons will be given three (3) months to resolve the conflict by one of the parties transferring to another department, resigning, accepting a demotion to a non-supervisory position or the like.

### **603 TRANSFER**

An employee may request a transfer or may be asked to transfer to a different Department if it is in the best interest of both Departments and if the employee can meet the qualifications for that position. The employee shall be placed in the pay step deemed appropriate by the Supervisor/Department Head and approved by the Mayor.

### **604 DEMOTION AND/OR REASSIGNMENT**

An employee may be reassigned to another available open position for which he is qualified if his position has been abolished or if he is unable to perform the duties of his position. An employee may be demoted for disciplinary purposes. The employee shall be placed in the pay step deemed appropriate for the new position by the Supervisor/Department Head and approved by the Mayor. An employee subject to disciplinary demotion is entitled to a hearing in accordance with the grievance procedure provided in this Manual.

### **605 PERFORMANCE EVALUATION**

The purpose of an evaluation is to:

- Maintain or improve the employee's job satisfaction and morale;
- Advise the employee of his strengths and weaknesses and what is expected of him in performing his duties;
- Serve as a basis for promotion, demotion or reassignment, and transfers;
- Build and strengthen the Supervisor/Department Head and employee working relationship; and
- Determine the employee's possible merit pay for a given fiscal year.

All evaluations will be maintained in the employee's personnel file.

**605.1 Probationary Period Evaluation** - During the ninety (90) day probationary period the immediate Supervisor/Department Head will monitor the employee's work habits, ability, and performance. If the Supervisor/Department Head considers the employee's overall performance to be satisfactory, regular full-time status will be recommended to the Mayor and Council on completion of the introductory period. The Supervisor/Department

- 27 -

Head shall keep the employee informed of his job performance throughout the probationary period.

**605.2 Annual Evaluation** - Prior to the employee's anniversary date of employment in his current position, the immediate Supervisor/Department Head will evaluate the employee's quality and quantity of work performed. If the performance evaluation is satisfactory or better, and if the employee is not at the maximum of his pay range, the Supervisor/Department Head may submit a recommendation to the Mayor for a pay increase for the employee. The Supervisor/ Department Head shall discuss the employee's job performance evaluation with both the employee and the Mayor.

## **606 USE OF TELEPHONE**

The use of City telephones for personal calls should be kept to a minimum. When it is necessary to make or receive personal calls during working hours, such calls are to be kept as brief as possible. Abuse of telephone privileges for personal calls will result in disciplinary action. (See Section 608).

## **607 SEPARATIONS**

Upon separation from employment, the employee will be required to return all City property, I.D. Cards, Insurance Cards and other City items before his/her final pay check is issued. The separation date is the employee's last day to work except when an employee becomes disabled in which case the last day paid is the separation date. Upon separation, the Mayor or City Clerk will conduct an exit interview. This provides the employee with an opportunity to receive any benefit extension forms, to have any questions answered and to provide information related to the reasons for leaving City employment where applicable.

**607.1 Resignation** - All employees, except temporary employees, are expected to give at least two weeks or ten (10) working days notice prior to their last day of work. This notice provides for an orderly transition to be made. Failure to do so may be cause for denying future employment with the City. An employee resigning in good standing may be considered for re-employment by complying with all requirements for a new employee.

**607.2 Layoff** - When there is a shortage of work or funds, or when the abolishment of a position becomes necessary, an employee may be laid off. Recall of a laid-off employee may be considered when clearly in the best interest of the City, a position is re-established or a vacancy becomes available for which the employee is qualified.

**607.3 Retirement** - Retirement procedures are outlined in the OMRP plan documents.

**607.4 Disability** - An employee who is unable to perform the essential functions of the position and where an accommodation would impose an undue hardship on the City may be separated due to disability as permitted by State and Federal law.

**607.5 Death of Employee** - In the event of the death of a City employee, termination shall be effective as of the date of death. Compensation due will either be paid to the beneficiary as designated by the employee or to the estate of the employee.

- 28 -

**607.6 Termination** - Termination will be solely for cause and the good of the service. An employee may appeal such action within ten (10) days after receipt of notice of termination in accordance with the grievance provisions contained in this manual.

## **608 USE OF CITY PROPERTY**

All employees are expected to be responsible in the use of City property. Personal use of City property or equipment is prohibited. Negligence in the care and use of City property, personal use of such property, or unauthorized removal of City property, may result in discipline. City equipment and property may not be removed without prior authorization from the Mayor. Employees are prohibited from working on personal projects or outside businesses or activities during regular work hours. Employees violating these policies will be subject to discipline up to and including termination.

All employees are expected to exercise proper care in the use of all City property, tools and equipment. Any employee who loses City property or equipment, or who negligently damages the same, shall be responsible for the reasonable cost in replacing the item(s).

The City provides to employees to assist them in carrying out their duties property and equipment such as office equipment, computers, computer accounts, radios, voice mail, email, fax machines, cellular telephones, furniture, lockers, vehicles and the like. These items are not for the exclusive use of any one employee. As these items are the property of the City, it reserves the right to inspect, review, audit, intercept, access, disclose and monitor such property, equipment and information systems at any time, with or without notice, and during or after regular work hours. All such items must be returned upon the request of the Supervisor/Department Head or the Mayor.

No employee is authorized to modify any such items without the prior written permission of the employee's Supervisor. This includes, without limitation, a prohibition against loading floppy disks, software programs or CD-ROM operations on the City's computers without prior permission. Employees are prohibited from removing City computers and software for use elsewhere. Computer games are prohibited on City equipment. No employee is authorized to change the lock on or use a personal lock on City-owned equipment without specific written permission from the Department Head. An employee may only install and use a password on a City computer with the consent of the Mayor.

All property and equipment supplied by the City is to be used only in the furtherance of legitimate City business. The City's information system is not to be used to solicit or proselytize for personal, political, commercial or religious causes, outside organizations or other non-job related personal matters. This policy does not prevent brief personal communications between employees or between employees and family members so long as it does not become time consuming and does not detract from day-to-day operations.

## **609 VEHICLE OPERATION AND MAINTENANCE POLICY**

Employees are issued City vehicles for in City business only. In non-emergency situations, only City employees are authorized to ride in City vehicles. **At no time shall a community service worker or work release inmate drive a City vehicle or operate City equipment.**

- 30 -

## SECTION 700

### EMPLOYEE CONDUCT AND DISCIPLINARY ACTION

#### 701 PROFESSIONAL CONDUCT AND ANTI-HARASSMENT POLICY

The City is committed to establishing a professional and congenial work environment and will take reasonable steps to insure that the work environment is pleasant for all who work for the City. All employees are expected to treat others with courtesy, consideration and professionalism. The City will not tolerate the harassment of any employee or customer by any other employee, Supervisor or customer. Employees may not use epithets, slurs or other terms or language designed to threaten, insult, intimidate or show hostility to another. Employees are prohibited from posting or circulating in the workplace any written or graphic materials or other objects that attack, defame, belittle, degrade or show hostility or aversion to any person or groups of people.

Harassment for any discriminatory reason, such as race, gender, national origin, disability, age, sex, religion or veteran status is prohibited not only by State and Federal laws but also by the policies of the City. The City prohibits not only unlawful harassment, but other types of unprofessional and discourteous conduct. Accordingly, derogatory, racial, ethnic, religious, age, gender, sexual orientation, sexual or other inappropriate remarks, slurs, "jokes", written material or actions will not be tolerated in the workplace.

Included in this prohibition is a prohibition against sexual harassment, which includes unwelcome sexual advances, requests for sexual favors, or any other visual, verbal or physical conduct of a sexual nature when:

- Submission to the conduct is made either implicitly or explicitly a condition of the individual's employment;
- Submission to or rejection of the conduct is used as a basis for an employment decision affecting the harassed employee; or
- The harassment has the purpose or effect of unreasonably interfering with the employee's work performance or of creating an environment which is intimidating, hostile or offensive to the employee.

Each employee must exercise his own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of harassment include, but are not limited to, the following:

- **Verbal:** Repeated sexual innuendos, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds;
- **Visual/Non-Verbal:** Derogatory posters, cartoons, telefaxes, drawings, suggestive objects or pictures, graphic commentaries, leering or obscene gestures;
- **Physical:** Unwanted physical contact including touching, interference with the individual's normal work movements or threatening gestures; and

- 31 -

- **Other:** Making or threatening reprisals as a result of a negative response to a harassing action.

Any employee or applicant who feels that he or she has been subjected to harassment or otherwise has been discriminated against due to his or her race, color, religion, national origin, gender, sexual orientation, age, disability or veteran status, or who witnesses such harassment of or discrimination against another employee, should promptly report the incident to the City Clerk or Mayor. An example of a **Complaint Form** is included in the "Forms" section of this Manual as Appendix "D".

All complaints of harassment or discrimination will be investigated. In determining whether alleged conduct constitutes harassment or discrimination, the totality of the circumstances, the nature of the harassment and the context in which the alleged incidents occurred will be considered. Except as deemed necessary to investigate and remedy violations, management will keep any complaint and the information revealed in the investigation as confidential as possible.

All employees are strongly encouraged to use the complaint procedures set forth herein if they believe they have been subjected to discrimination or harassment. Employees are encouraged to notify management of conduct that may violate this policy before it becomes a serious problem and the conduct interferes with an individual's work performance or creates a hostile environment. This will allow management time to address the situation.

If an employee believes that a Supervisor or management employee has engaged in harassment, the employee is encouraged to use the "Supervisory By-Pass Procedure" as follows:

### **SUPERVISORY BY-PASS PROCEDURE**

**Purpose:** This policy is designed to provide a procedure whereby employees may, in good faith, report suspected violations of City policies and/or State or Federal laws by supervisory or management personnel without fear of retaliation. However, abuse of this procedure by knowingly reporting false information will result in disciplinary action up to and including termination. For the purpose of this policy, an "immediate Supervisor" is defined as the person in the employee's immediate chain of command who generally performs evaluations, as well as the person(s) in the chain of command who may recommend discipline and who provide direct supervisory or management control over the employee's employment welfare.

### **Procedures:**

- In the event that an immediate Supervisor is violating a City policy or in violation of a State or Federal law, the employee witnessing the violation may utilize this by-pass procedure and report the incident to the applicable Department Head utilizing the **Complaint Form** attached as Appendix "D" to this Manual.
- In the event that the Department Head is also suspected to be involved in the alleged violation, the employee may report the incident directly to the Mayor utilizing the same form. The Mayor may directly investigate the allegations or may assign the investigation to some other Department Head.

- 32 -

- In the event that the Mayor is suspected of being involved in the alleged violation, the employee may report the allegations to the City Council on the Complaint Form. The City Council will determine the best method of investigating the allegations.
- All complaints will be handled in as confidential a manner as possible under the totality of the circumstances recognizing that witnesses may have to be interviewed and the allegations discussed with them. Any finds of fact will be reduced to writing and the complainant will be informed of the ultimate determination of the fact finder(s). However, due to the need to protect the privacy interests of all employees, the complainant may or may not be informed of any final act of discipline, if any.

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The initiation of a complaint, in good faith, will not be grounds for discipline. It is a violation of the City's policy for an individual to be disciplined or otherwise disadvantaged as a result of a good faith resort to this complaint procedure. However, deliberately reporting false allegations may be considered as a form of harassment and may subject an employee to appropriate discipline.

If a person is determined to have violated this policy, the City will take appropriate action designed to prevent any further incidents of inappropriate behavior. If necessary, this could include disciplinary action up to and including termination. In addition, management and supervisory employees may face disciplinary action if they fail to take corrective action after becoming aware of the existence of harassment or discrimination, regardless of whether the victim has filed a formal complaint.

## 702 SMOKING POLICY

Under State law the City is responsible for the protection of employees against hazardous conditions and material in the workplace. The State of Oklahoma does not permit smoking in places of public accommodation. In accordance with this law, it is the policy of the City that smoking IS NOT PERMITTED in any of its buildings and is permitted ONLY in designated areas located out of doors and at least **twenty-five feet** from all entrances to public buildings.

## 703 ALCOHOL AND CONTROLLED SUBSTANCES POLICY AND TESTING PROCEDURES

The City has a zero tolerance "Drug and Alcohol Free Workplace" policy which will be enforced uniformly and immediately with respect to all employees. As a condition of employment, employees must read, understand and abide by the terms of this policy. The unlawful manufacture, distribution, possession or use of an illegal substance or the use or possession of alcohol is prohibited anywhere in the workplace or on City property. Every employee must acknowledge that they have read and understand the City's Alcohol and Controlled Substances Policy and Testing Procedures by signing the **Alcohol and Substance Abuse Policy Acknowledgement Form** included at the back of this Manual as Appendix "E".

- 40 -

## 704 DISCIPLINARY ACTION

All City employees are "at will". Regulations for the acceptable conduct of employees are necessary for the orderly operation of the City and for the benefit and protection of the rights and safety of all employees. Regulations may be established from time to time, and procedures for disciplinary action are designed to promote understanding of what is considered "unacceptable conduct" and to encourage consistent action in the event of violations.

**704.1 Progressive Discipline** - The City will follow a system of progressive discipline for offenses. The following normal progression is determined by the specific violation or degree of misconduct and may or may not follow the order specified below. In cases of suspension for more than ten days and/or termination, the discipline requires final approval of the City Council.

- The first reprimand is either oral or written and will be placed in the employee's personnel file.
- The second reprimand may result in a suspension without pay for up to three (3) days.
- The third reprimand may be a suspension without pay for an unspecified amount of time, or termination of employment.

All reprimands become a part of the employee's personnel file for at least one (1) years, except when there is an on-going problem requiring it to remain in the file for a longer period. See Section 209.3.

**704.2 Disciplinary Procedures** - While the express purpose of discipline is to correct inappropriate performance or behavior, discipline may be punitive in nature and will be based on an employee's status or classification, past performance and behavior, the severity of the circumstances and the evidence warranting any action. When reviewing the degree of discipline to be imposed, the areas to review may include, but are not limited to, the following and should be documented thoroughly:

- Severity of the action;
- Policy or procedure violated and the employee's knowledge thereof;
- Past work history;
- Degree of damage/injury to equipment, property or persons;
- Length of service;
- Degree of insubordination, if any;
- Cover-up or false statements or records;
- Prior safety record, if applicable;
- Violation of a disciplinary probation agreement; and
- Cooperation during any investigation.

**704.3 Disciplinary Causes** - Some of the causes for discipline and factors to be considered are, but not limited to, the following:

- Incompetence, inefficiency, or negligence in the employee's performance of duty;

- 41 -

- Discrimination, harassing, coercive, or disruptive action toward fellow workers, including sexual harassment;
- Insubordination resulting from failure to carry out written or verbal orders;
- Theft, deliberate destruction or waste of City property;
- Unauthorized absences, failure to report for work promptly, and abuse of sick and vacation leave;
- Acceptance of valuable consideration which was given with the expectation of influencing the employee in the performance of his/her duty;
- Falsification of records or misrepresentation about material information;
- Fighting, gambling, or unauthorized possession of weapons while on duty and/or City property;
- Drunkenness or use of illegal drugs or intoxicants while on duty;
- Misuse of or theft of City vehicles, equipment or property;
- Any on or off duty conduct contrary to acceptable standards resulting in the embarrassment of, or offensiveness to the City and/or other employees;
- Any violation of safety rules and notices and "horseplay";
- Any illegal act on the part of the employee;
- Any use of official position to influence, accomplish or encourage the committing of illegal acts on the part of any City employee;
- Flagrant disregard for the established "chain of command"; and
- Malingering or failing to perform work/duties in a manner that adversely affects the mission of the department as determined by the Department Head.
- Insubordination by gross neglect of duty, refusal to comply with management's lawful instructions or violation of or refusal or inciting others not to comply with departmental or City rules and regulations.
- Conviction of a felony, or any criminal misconduct on or off duty involving moral turpitude or conduct that shocks the conscience of the community or brings the City's good name into disrepute because the conduct is public. A plea of "nolo contendere" is tantamount to a conviction.
- Habitual tardiness, unauthorized or excessive absence or abuse of sick leave, falsification of leave usage, sleeping on duty except when accepted as a normal portion of the job assignment.
- Smoking in unauthorized areas.
- Violation of the City's policy against discrimination or harassment.
- Excessive garnishments, tax liens or wage assignments as regulated in State law.

In order to insure that the employee clearly understands the nature and reasons for the discipline and the expectations of the City for improvement in the areas of deficiency, all discipline other than informal discussions will be reflected on a **"Notice of Counseling/ Reprimand/Discipline"** form. A copy of the form is attached as Appendix "G".

## **705 DISCIPLINARY HEARING PROCEDURES**

Employees who are subject to disciplinary action involving reassignment with loss of pay, demotion, suspension without pay, disciplinary probation or termination will be offered an administrative hearing before the Mayor and City Council before any final action is taken. This hearing procedure is available only to regular, full time employees not covered by a collective bargaining agreement.

- 42 -

- The Department Head will prepare a statement of charges with a recommendation for discipline. A copy will be provided to the employee and the Mayor.
- If the employee desires a hearing before the discipline becomes final, he must request a hearing, in writing, with the Mayor within three (3) business days.
- The employee will be notified, in writing, of the date, time and place for the hearing with the Mayor.
- Following the hearing, the Mayor and Council shall make a final decision as to the appropriate discipline, if any, to impose. The employee shall be notified of the decision in writing.

All employees within the classified service are entitled to request a hearing before the City Council where the discipline imposed by the Mayor results in a lay off, suspension without pay for more than ten (10) days, demotion or termination. Employees entitled to such a hearing must make a request, in writing, within ten (10) days after receipt of the notice of disciplinary action by submitting an appeal to the City Clerk for transmittal to the Council. Upon hearing the appeal, the decision of the City Council shall be final.

#### **706 GRIEVANCE PROCEDURE**

It is the policy of the City that employee grievances will be adjudicated promptly and fairly. An employee who believes he/she has received inequitable treatment because of some condition of employment or a disputed interpretation of policy should first discuss the grievance with his/her Supervisor/Department Head in an informal manner to see if the problem can be resolved informally. If this does not prove satisfactory to the grievant he/she may file a formal grievance with his/her immediate Supervisor. The grievance should contain:

- A statement of the problem;
- Names of the parties involved;
- The employee's perception of the Supervisor's or Department Head's response to the problem; and
- Identification of the areas satisfied by the Supervisor's or Department Head's response and identification of the areas that remain unresolved.

The grievance shall be filed within fifteen (15) working days of the occurrence and as follows:

- The employee will submit the grievance to his/her immediate Supervisor. The Supervisor shall attempt to resolve the grievance fairly and respond to the employee within three (3) working days.
- If the grievance is not resolved at this step, the employee may appeal the Supervisor's decision to the Mayor within five (5) working days of that decision. The appeal shall be in writing and shall state: a) the original grievance; b) affected employee(s); c) basis for the appeal; d) specific policy violated; and 3) remedy sought.

## SECTION 800

### USE OF ELECTRONIC COMMUNICATION DEVICES

Procedures for the use of electronic communication devices owned by the City as hereinafter set out apply to all employees and elected employees (except Council members).

#### 801 INTERNET ACCEPTABLE USE POLICY

**NOTE:** This rule or regulation is for internal use only, and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims.

**801.1 Purpose:** The internet provides a source of information from which many employees can benefit. It is the goal of the City that all employees whose job performance can be improved through use of the Internet should have access and gain the skills needed to use the Internet effectively. This policy document presents the acceptable use of the Internet by city employees, volunteers, or contractors while using city-owned or leased equipment, facilities, or Internet addresses registered to the city.

**801.2 Background:** The Internet is comprised of thousands of interconnected networks that provide digital pathways to millions of computers. Because these networks subscribe to a common set of standards and protocols, users have worldwide access to Internet hosts and their associated applications and databases. These capabilities can provide enormous benefit to the City, which depends upon a wide variety of technical and professional skills to carry out its activities. Employees may use the Internet to stay current on career-related topics, to improve their knowledge and skills, and to communicate with others that have expertise in the employee's field of work.

The City encourages authorized users to access the Internet during normal working hours, when direct work-related benefits can accrue. Since the Internet access service is paid for on a fixed cost basis and so is not usage sensitive, users are permitted to use this capability for non work-related activities in order to build their network search and retrieval skills.

**801.3 Scope of the Policy:** This policy applies to Internet access only. The following City Internet users are covered by this policy:

- Full or part-time employees of the City;
- Volunteers who use City resources to access the Internet; and
- City contractors, when using government-owned equipment or facilities.

This policy applies to Internet access when using government equipment, facilities, and performed using an Internet Protocol (IP) Address registered to the City.